

### **REMARKS**

This is a full and timely response to the outstanding Office Action mailed May 12, 2009. Upon entry of the amendments in this response, claims 1 – 3, 5 – 17 and 20 – 26 are pending. In particular, Applicant amends claims 1, 3, 6 and 7, adds claims 25 and 26, and cancels claims 4, 18 and 19 without prejudice, waiver, or disclaimer. Applicant cancels claims 4, 18 and 19 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

#### **I. Rejections under 35 U.S.C. § 103**

The Office Action indicates that claims 1-4, 6-10, 12-15, and 20-24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Benier* (U.S. Patent No. 4,555,226) in view of *Herrera* (U.S. Patent No. 3,883,283). Additionally, the Office Action indicates that claim 5 stands rejected over *Benier* in view of *Herrera* and *Hansen* (U.S. Patent No. 2,677,334), that claim 16 stands rejected over *Benier* in view of *Herrera* and *Yonemaru* (U.S. Patent No. 6,117,472), and that claim 17 stands rejected over *Benier* in view of *Herrera* and *Akashi* (U.S. Patent No. 5,989,617).

With respect to claim 4, Applicant has canceled this claim and respectfully asserts that the rejection as to claim 4 has been rendered moot. With respect to the

remaining claims, Applicant respectfully traverses. Accordingly, Applicant respectfully requests that the rejections be withdrawn for the following reasons.

**A. Claim 1 is Allowable**

As amended herein, independent claim 1 recites:

1. Device for transforming a dough ball into an elongated dough portion, comprising a supply for the dough ball, a roller assembly receiving the dough ball from the supply for rolling the dough ball into a separate flat piece of dough, and means for rolling up the flat piece of dough into an elongated roll of dough, ***wherein the supply is adapted for joint discharge of at least two adjacent dough balls to the roller assembly for forming said flat piece of dough, wherein the supply is adapted for simultaneously discharging two dough balls.***

(Emphasis added).

Applicant respectfully asserts that the cited art is legally deficient for the purpose of rendering claim 1 unpatentable. In particular, the cited art (either individually or in combination) does not teach or reasonably suggest at least the features emphasized above in claim 1.

In this regard, the Office Action indicates (and Applicant respectfully agrees) that *Benier* fails to teach a “supply” adapted for joint discharge of at least two adjacent dough balls. However, in contrast to the position taken in the Office Action, Applicant respectfully asserts that *Herrera* does not remedy this deficiency. Notably, *Herrera* discloses that patties in each pair arrive at the input rollers at different times and the oval flour dough sheets in each pair arrive at the output rollers at different times (see *Herrera* at column 4, lines 53 – 61, for example). As such, even if properly combined, the combination does not teach or reasonably suggest at least “wherein the supply is adapted for joint discharge of at least two adjacent dough balls to the roller assembly for forming said flat piece of dough, wherein the supply is adapted for simultaneously

discharging two dough balls” as recited in claim 1. Therefore, Applicant respectfully requests that the rejection be removed and that claim 1 be placed in condition for allowance.

**B. Dependent Claims 2, 3 and 5 are Allowable**

With respect to claims 2, 3 and 5, these claims are believed to be allowable for at least the reason that these claims depend from and incorporate the limitations of allowable independent claim 1. See, *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Additionally, these dependent claims recite other features that can serve as independent bases for patentability. By way of example, claim 3 recites:

3. Device according to claim 1, wherein the supply is provided with **a feed, operative to provide consecutively supplied dough balls in series, a distributor, operative to receive the dough balls in series and to displace the dough balls transversely, and a buffer, operative to receive transversely displaced dough balls and to delay downstream supply of the dough balls to form sequential sets of the dough balls**, such that a succession of dough balls supplied in series to the distributor is transformed into a succession of sets of dough balls discharged parallel to the roller assembly by the buffer.

(Emphasis added).

Applicant respectfully asserts that the cited art (either individually or in combination) does not teach or reasonably suggest at least the features emphasized above in claim 3. For at least this additional reason, Applicant respectfully asserts that claim 3 clearly is in condition for allowance.

**C. Claim 6 is Allowable**

As amended herein, independent claim 6 recites:

6. Method for transforming a dough ball into an elongated dough portion, **wherein at least two dough balls are simultaneously supplied adjacent to each other to a roller**

**assembly**, are passed therethrough and are flattened thereby in order to form a separate flat piece of dough, wherein during flattening, **the dough of dough balls that are adjacent to each other in a direction transverse to the process direction is urged into close contact with each other.**

(Emphasis added).

Applicant respectfully asserts that the cited art is legally deficient for the purpose of rendering claim 6 unpatentable. In particular, the cited art (either individually or in combination) does not teach or reasonably suggest at least the features emphasized above in claim 6.

In this regard, the Office Action indicates (and Applicant respectfully agrees) that *Benier* fails to teach a “supply” adapted for joint discharge of at least two adjacent dough balls. However, in contrast to the position taken in the Office Action, Applicant respectfully asserts that *Herrera* does not remedy this deficiency. Notably, *Herrera* discloses that patties in each pair arrive at the input rollers at different times and the oval flour dough sheets in each pair arrive at the output rollers at different times (see *Herrera* at column 4, lines 53 – 61, for example). As such, even if properly combined, the combination does not teach or reasonably suggest at least “wherein at least two dough balls are simultaneously supplied adjacent to each other to a roller assembly” as recited in claim 6. Moreover, other than the unsupported supposition of the Office Action, there is no teaching or suggestion in any of the art that using more than one dough ball to form a flat piece of dough is known or desirable. Therefore, Applicant respectfully requests that the rejection be removed and that claim 6 be placed in condition for allowance.

**D. Dependent Claims 8 – 17 are Allowable**

With respect to claims 8 - 17, these claims are believed to be allowable for at least the reason that these claims depend from and incorporate the limitations of allowable independent claim 6. See, *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Additionally, these dependent claims recite other features that can serve as independent bases for patentability.

**E. Claim 7 is Allowable**

As amended herein, independent claim 7 recites:

7. Method for transforming a dough ball into an elongated dough portion, ***wherein at least two dough balls are simultaneously supplied adjacent to each other to a roller assembly***, are passed therethrough and are flattened thereby, wherein during flattening, ***the dough of dough balls that are adjacent to each other in a direction transverse to the process direction are formed into a separate slab of dough forming one unity***.

(Emphasis added).

Applicant respectfully asserts that the cited art is legally deficient for the purpose of rendering claim 7 unpatentable. In particular, the cited art (either individually or in combination) does not teach or reasonably suggest at least the features emphasized above in claim 7.

In this regard, the Office Action indicates (and Applicant respectfully agrees) that *Benier* fails to teach a “supply” adapted for joint discharge of at least two adjacent dough balls. However, in contrast to the position taken in the Office Action, Applicant respectfully asserts that *Herrera* does not remedy this deficiency. Notably, *Herrera* discloses that patties in each pair arrive at the input rollers at different times and the oval flour dough sheets in each pair arrive at the output rollers at different times (see

*Herrera* at column 4, lines 53 – 61, for example). As such, even if properly combined, the combination does not teach or reasonably suggest at least “wherein at least two dough balls are simultaneously supplied adjacent to each other to a roller assembly” as recited in claim 7. Moreover, other than the unsupported supposition of the Office Action, there is no teaching or suggestion in any of the art that using more than one dough ball to form a flat piece of dough is known or desirable. Therefore, Applicant respectfully requests that the rejection be removed and that claim 7 be placed in condition for allowance.

**F. Dependent Claims 20 - 24 are Allowable**

With respect to claims 20 - 24, these claims are believed to be allowable for at least the reason that these claims depend from and incorporate the limitations of allowable independent claim 7. See, *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Additionally, these dependent claims recite other features that can serve as independent bases for patentability.

**II. Newly Added Claims**

In this response, Applicant adds new claims 25 and 26 and respectfully asserts that these claims are in condition for allowance. No new matter has been added.

Claims 25 and 26 are dependent claims that incorporate the limitations of claims 6 and 7, respectively. For at least this reason, these claims are believed to be allowable for being dependent upon allowable claims. Additionally, these claims recite other features that are believed to patentably distinguish over the cited art.

In this regard, claims 25 and 26 recite:

25. Method according to claim 6, wherein supplying the at least two dough balls simultaneously comprises:

***consecutively conveying dough balls in series;***  
***displacing selected ones of the dough balls transversely*** with respect to a series conveying direction; and

***delaying downstream supply of the dough balls to form sequential sets of the dough balls***, such that a succession of dough balls supplied in series is transformed into a succession of sets of dough balls, conveyed along the series conveying direction, and aligned transversely with respect to the series conveying direction.

(Emphasis added).

26. Method according to claim 7, wherein supplying the at least two dough balls simultaneously comprises:

***consecutively conveying dough balls in series;***  
***displacing selected ones of the dough balls transversely***; and  
***delaying downstream supply of the dough balls to form sequential sets of the dough balls***, such that a succession of dough balls supplied in series is transformed into a succession of sets of dough balls, conveyed along a conveying direction, and aligned transversely with respect to the conveying direction.

(Emphasis added).

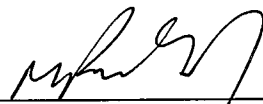
Applicant respectfully asserts that the cited art (either individually or in combination) does not teach or reasonably suggest at least the features emphasized above in claims 25 and 26, respectively. Therefore, Applicant respectfully requests that these claims be placed in condition for allowance.

**CONCLUSION**

Applicant respectfully submits that all pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

  
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